



AF 1623

PATENT

Customer No. 22,852

Attorney Docket No. 7579.0001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Reissue Application of:)
)
Graham Edmund KELLY) Group Art Unit: 1623
)
Reissue Serial No.: 09/602,191) Examiner: Patrick T. LEWIS
)
U.S. Patent No. 5,830,887)
)
Filed: June 22, 2000)
)
For: HEALTH SUPPLEMENTS CONTAINING)
PHYTO-OESTROGENS, ANALOGUES)
OR METABOLITES THEREOF)

MAIL STOP AF

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT
UNDER 37 C.F.R. § 1.97(d)

Pursuant to 37 C.F.R. § 1.56, Applicant brings to the attention of the Examiner the documents listed on the attached Form PTO 1449. This Information Disclosure Statement is being filed after the mailing date of a Final Action. Applicant respectfully requests that the Examiner waive the rule and kindly consider this Information Disclosure Statement because of the Examiner's familiarity with this case and its related co-pending cases. If the Examiner declines to consider these references, Applicant respectfully requests that these papers be placed in the file pursuant to 37 C.F.R. § 1.97(i). Should the Examiner kindly consider this Information Disclosure Statement, Applicant authorizes the Office to deduct the fee of \$180.00 as specified by 37 C.F.R. § 1.17(p) from our Deposit Account No. 06-0916.

Applicant also wishes to direct the Office's attention to Interference Proceeding No. 104,576 involving the Gorbach U.S. Patent No. 5,498,631 ("the '631"). In that interference, Stanley Gorbach was the senior party. The junior party, Graham Edmund Kelly, one of the

inventors in this application, successfully argued the priority of U.S. Application Serial No. 08/910,837. Thus, to the extent that the presently pending claims are similar to the Kelly claims in interference, the '631 Gorbach patent is not a proper reference under Section 102.

Finally, Applicant also submits the following declarations obtained from opposition proceedings on patents related to this patent application in Australia and New Zealand. The following documents from these proceedings were previously submitted to the USPTO in possibly related applications. In the Information Disclosure Statement filed on June 22, 2000, for this application Applicant submitted these documents but did not include them on Form PTO 1449. Applicant now includes them on the attached Form PTO 1449.

1. Statutory Declaration of Fiona Bathgate.
2. Statutory Declaration of Nancy Beckham.
3. Statutory Declaration of Kerry Martin Bone.
4. Statutory Declaration of Jennifer Carpinelli.
5. Statutory Declaration of G. Clements.
6. Statutory Declaration of Julie Hill.
7. Statutory Declaration of Norbert Krause.
8. Statutory Declaration of Ngaire Petit-Young.
9. Statutory Declaration of Hubert Regtop.
10. Statutory Declaration of Joseph Nicolas Van Haaster.

Copies of the listed documents are attached. German published application DE 44 32 947 A1 is not in English. In lieu of a statement of relevance or translation of the non-English documents, English language versions of the Supplementary Partial European Search Report dated October 11, 2002, citing this document and setting forth its relevance is enclosed. Schultz, in German, and Deschamps-Vallet, in French, have certified English translations attached.

Applicant respectfully requests that the Examiner consider the listed documents and indicate that they were considered by making appropriate notations on the attached form.

This submission does not represent that a search has been made or that no better art exists and does not constitute an admission that each or all of the listed documents are material or constitute "prior art." If the Examiner applies any of the documents as prior art against any claim in the application and applicant determines that the cited documents do not constitute "prior art" under United States law, Applicant reserves the right to present to the Office the relevant facts and law regarding the appropriate status of such documents.

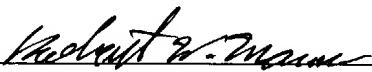
Applicant further reserves the right to take appropriate action to establish the patentability of the disclosed invention over the listed documents, should one or more of the documents be applied against the claims of the present application.

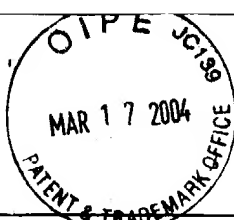
If there is any fee due in connection with the filing of this Statement, please charge the fee to Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: March 9, 2004

By: 
Robert W. Mann
Reg. No. 48,555

**INFORMATION DISCLOSURE CITATION**

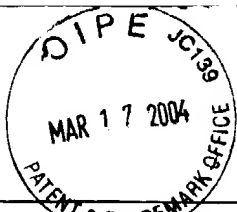
OMB No. 0651-0011

Atty. Docket No.	07579-0001-00000	Serial No.	09/602,191				
Applicant				Graham Edmund KELLY			
Filing Date		June 22, 2000		Group:		1623	

U.S. PATENT DOCUMENTS

Examiner Initial*	Document Number	Issue Date	Name	Class	Sub Class	Filing Date If Appropriate
	2002 0035074-A1		Kelly			03/21/2002
	3,471,520	10/07/1969	lrmscher et al.			
	3,535,344	10/20/1970	lrmscher et al.			
	4,157,984	06/12/1979	Zilliken			
	4,428,876	01/31/1984	Iwamura			
	4,814,346	03/21/1989	Albert et al.			
	5,153,230	10/06/1992	Jafery			
	5,247,102	09/21/1993	Kállay et al.			
	5,523,087	06/04/1996	Shlyankevich			
	5,639,785	06/17/1997	Kung			
	5,702,752	12/30/1997	Gugger et al.			
	5,733,926	03/31/1998	Gorbach			
	5,804,234	09/08/1998	Suh et al.			
	5,855,892	1/5/1999	Potter et al.			
	5,942,539	08/24/99	Hughes, Jr. et al.			
	6,060,070	05/09/2000	Gorbach			
	6,235,773	05/22/2001	Bissett			
	6,599,536	07/29/2003	Kelly et al.			
	6,642,212	11/04/2003	Kelly			
	6,649,648	11/18/2003	Kelly et al.			

Examiner	Date Considered
*Examiner: Initial if reference considered, whether or not citation is in conformance with MPEP 609; draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.	
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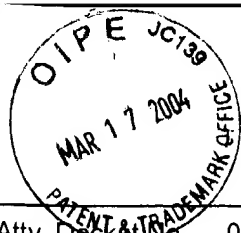
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	AU-A-10227/95	07/27/1995	Australia			
	AU-A-27714/00	11/23/2000	Australia			
	AU-A-73072/98	09/30/1999	Australia			
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	JP S50-0035393	04/04/1975	Japan			Abstract
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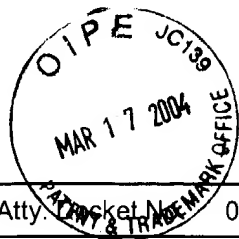
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	WO 00/54753 A2	09/21/2000	PCT			
	WO 00/62765 A2	10/ 26/2000	PCT			

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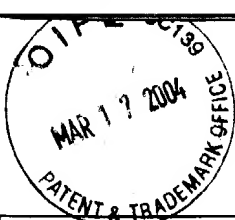
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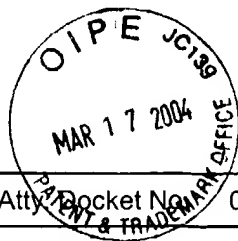
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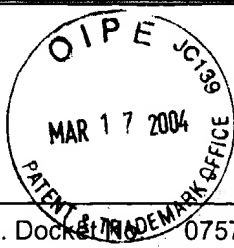


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OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)	
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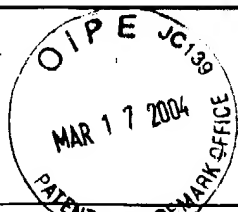
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OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)	
	Statutory Declaration of Nancy Beckham, declared September 8, 1998, 20 pages.
	Statutory Declaration of Kerry Martin Bone, declared October 5, 1998, 31 pages.
	Statutory Declaration of Jennifer Carpinelli, declared October 21, 1998, 2 pages.
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